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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,169	01/30/2004	Junji Nishida	2004_0155A	4703
513	7590	08/19/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			VALENTI, ANDREA M	
		ART UNIT	PAPER NUMBER	
		3643		

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/767,169	NISHIDA, JUNJI	
	Examiner	Art Unit	
	Andrea M. Valenti	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 January 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,761,848 to Manlove.

Regarding Claim 1, Manlove teaches a plant pot (Manlove #6) comprising: a bottom, a drainage hole (Manlove Fig. 2 #15) provided at the bottom in a penetrating manner, and a water storage portion formed at the inside of the bottom (Manlove Fig. 3 and 5 #14).

Regarding Claim 4, Manlove teaches hollows (Manlove Fig. 1 #16) for drainage and ventilation provided at the part being in contact with the ground at the bottom of the plant pot.

Claims 1-3, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,885,825 to Longacre.

Regarding Claim 1, Longacre teaches a plant pot (Longacre #14) comprising: a bottom, a drainage hole (Longacre Fig. 3 #30) provided at the bottom in a penetrating manner, and a water storage portion formed at the inside of the bottom (Longacre Fig. 1).

Regarding Claim 2, Longacre teaches a drainage hole formed at the central part of the bottom, partition wall (Longacre #32) formed in a protruding manner at the circumference of the drainage hole inside the plant pot, a water storage portion formed between the corresponding partition wall and the inner circumferential surface of the side wall of the plant pot (Longacre Fig. 1).

Regarding Claim 3, Longacre teaches the side wall of the plant pot is formed in a tapered shape (Longacre Fig. 1 #14) so that the upper side of the opening becomes the large diameter and stacking can be carried out, and the plant pots which are stacked can be prevented from being stacked to each other by the partition wall provided at the circumference of the drainage hole.

Regarding Claims 6 and 7, Longacre teaches the partition wall (Longacre #32) functions as a retaining wall of a member for blocking the drainage hole.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,885,825 to Longacre in view of U.S. Patent No. 19,280 to Whilldin.

Regarding Claims 4 and 5, Longacre is silent on the hollows. However, Whilldin teaches hollows (Whilldin element D) for drainage and ventilation provided at the part

being in contact with the ground at the bottom of the plant pot. It would have been obvious to one of ordinary skill in the art to modify the teachings of Longacre with the teachings of Whilldin at the time of the invention for enhance aesthetic appeal.

Regarding Claim 8, Longacre as modified teaches the partition wall (Longacre #32) functions as a retaining wall of a member for blocking the drainage hole.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

German Patent DE 3412124; U.S. Patent Pub. No. US 2004/0010970; U.S. Patent No. 1,775,831; U.S. Patent No. 2,028,255; U.S. Patent Pub. No. US 2002/0152677; U.S. Patent No. 4,173,097; U.S. Patent No. 3,315,410; U.S. Patent No. 19,406; U.S. Patent No. 3,783,555; U.S. Patent No. 5,459,960; U.S. Patent No. 2,885,825; U.S. Patent Pub. No. US 2003/0106262.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrea M. Valenti
Andrea M. Valenti
Examiner
Art Unit 3643

02 August 2004

Peter M. Poon
Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600